

1880.  
NEW ZEALAND.

## WAIPAWA LAND DISPUTE

(CORRESPONDENCE RELATING TO THE).

*Laid on the Table, by the Hon. Mr. Hall, with the leave of the House.*

EXTRACT from the JOURNALS of the LEGISLATIVE COUNCIL, Thursday, 31st October, 1877.

*Resolved*, That this Council doth concur in the report of the Public Petitions Committee on the Petition of Heta Tiki, and that a copy of this resolution be forwarded to the Government. (*Hon. Captain Baillie.*)

Mr. J. T. TYLEE, Sheriff, Napier, to the Hon. the MINISTER of JUSTICE, Wellington.  
(Telegram.)

29th January, 1878.

WRIT of possession issued by Harding against Heta Tiki and others, at Waipukurau. In doubt if Natives will give up possession, and understand Harding is willing to compromise, but cannot say on what terms. Shall I attempt to take possession?

The Hon. the Minister of Justice, Wellington.

J. T. TYLEE, Sheriff.

Mr. S. LOCKE, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

SIR,—

16th February, 1878.

I have the honor to forward—in accordance with your telegram No. 838—herewith all the papers I have relating to the dispute between Mr. Harding and Native owners of Tapairuru Block. I have not the papers you refer to.

I have, &c.,

The Under-Secretary, Native Department, Wellington.

S. LOCKE.

PETITION of JOHN HARDING (presented by Captain Russell, 2nd October, 1879).

To the Honourable the Speaker and Members of the House of Representatives of the Colony of New Zealand in Parliament assembled.

The humble petition of John Harding, of Mount Vernon, Waipawa, Sheepfarmer,

SHOWETH,—

THAT, on the 18th day of December, 1872, your petitioner sued out a writ of ejectment in the Supreme Court at Napier against Heta Tiki and divers others, aboriginal natives, all of Waipukurau, to recover possession of a piece of land, being portion of Block No. 14, Waipukurau District, and for which land your petitioner held a Crown grant. That, after various delays caused by the defendants promising to give up possession of the land, &c., the case was brought to trial in December, 1875; and on the day of trial a memorandum of terms of settlement was signed by Mr. John Sheehan as solicitor for the Natives, and your petitioner, in words and figures following:—

“Memorandum of terms of settlement—1. Harding *v.* Heta Tiki and Bennett; 2. Harding *v.* Heta Tiki and other Natives: (No. 1.) Action to be withdrawn; Natives to pay their portion of taxed costs. (No. 2.) Action to be withdrawn; possession to be given of ground within two months from date, Natives to be allowed to remove houses, crop, and personal property, but not fencing; Natives to pay taxed costs. I approve of these terms of settlement on behalf of the Natives in both actions.—JOHN SHEEHAN.—17th December, 1875.”

That, notwithstanding the said agreement, the said Natives continued in possession of the said land, and failed to pay any of the costs of the said action as agreed, although your petitioner repeatedly applied to Mr. John Sheehan to have the terms of the said agreement carried out. That, finding that the Natives would not carry out their part of the said agreement, your petitioner obtained leave from the Court to enter up judgment in the said action against the said Natives; and, on the 24th day of January, 1878, your petitioner sued out of the said Court a writ of possession addressed to the Sheriff of the Provincial District of Hawke's Bay, commanding him to give your petitioner possession of the said land. That the Sheriff has failed to execute the said writ, alleging that he received instructions from the Native Minister not to do so. That both your petitioner and his counsel have had repeated interviews with the Native Minister, who has promised redress, but that up to the present date your petitioner is kept out of possession of the said land, and has not received any portion of the large amount that he has expended in costs, and the law of the land continues to be set aside.

Your petitioner therefore humbly prays that your honorable House will grant your petitioner such redress as may seem fit, and that the Sheriff may be allowed to execute the writ that has been delivered to him according to the law of the colony.

And your petitioner, as in duty bound, will ever pray.

27th September, 1879.

JOHN HARDING.

#### REPORT on the Petition of JOHN HARDING.

THE petitioner prays for the execution of a writ of ejectment against certain Natives in the Hawke's Bay Provincial District.

I am directed to report that the Committee, having made inquiry into the petitioner's case, is of opinion that the Government would not be justified in using force to place the petitioner in possession of the land claimed by him, inasmuch as the Natives have an equitable claim to possession, although the petitioner is entitled legally under Crown grant. The Committee recommend the Government to endeavour to settle the matter, by purchasing the petitioner's legal title to the land in question.

12th November, 1879.

THOMAS KELLY.

The UNDER-SECRETARY, Native Department, Wellington, to J. S. MASTER, Esq., Napier.

SIR,—

Native Office, Wellington, 22nd November, 1879.

I have the honor, by direction of the Hon. the Native Minister, to forward herewith copies of a petition to the House of Representatives, from Mr. John Harding, of Mount Vernon, Waipawa, and report by the Public Petitions Committee thereon, relating to a piece of land, being portion of No. 14, Waipukurau District, and to request that you will be good enough to inquire into the matter with a view of ascertaining whether it can be settled by a money payment, and furnish a report to this office with as little delay as possible. The papers on the subject—N.O., 79/4812; N. and D., 78/3026, 78/570, 77/4451, and 77/2259—are enclosed herewith for your information.

I have, &c.,

T. W. LEWIS,  
Under-Secretary.

J. S. Master, Esq., Native Office, Napier.

Mr. J. S. MASTER, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

SIR,—

Native Office, Napier, 5th December, 1879.

I have the honor to inform you, with reference to Mr. Harding's case, I cannot send you report for the present, as I have received a letter from his son at Waipukurau, informing me that his father is at present in Auckland, where I will write to him; and as soon as I can get a satisfactory reply, I will forward my report to you.

I have, &c.,

The Under-Secretary, Native Department, Wellington.

JAMES S. MASTER.

Mr. J. HARDING to Mr. J. S. MASTER.

SIR,—

Mount Vernon, 22nd December, 1879.

I have to acknowledge the receipt of your favour of the 1st December, 1879, *re* land of mine now in occupation of Natives. I have no doubt but you can settle it by money payment to the Natives, but not to me. I want possession of my land, and payment of the law charges, &c., I have spent in endeavouring to obtain possession, and will not sell my right. I have used every reasonable means to obtain possession, and now claim from the Government authority for the Sheriff to enforce the writ he has held so long, or else that the Government should in some other way get me my land. The Natives have a large reserve close to it, which they let to Europeans; let them return to their own land, and give up mine. If the Government think the Natives have a claim, let the Government compensate them. I only want my own.

I have, &c.,

Mr. J. S. Master.

JOHN HARDING.

Mr. J. S. MASTER to the UNDER-SECRETARY, Native Department, Wellington.

SIR,—

Native Office, Napier, 2nd January, 1880.

I have the honor to forward for your information the attached letter which I received from Mr. J. Harding, in reply to my letter of 1st December, 1879, which I wrote to him with reference to a letter received by me from Under-Secretary, Native Department, Wellington, dated 22nd November, 1879, No. 1010, N.O., 79/4812.

I will keep the papers which you sent me with said letter until I know from you what further is to be done in the matter, and whether the Natives are to be offered anything by the Government to leave the said disputed land, as I have not yet said anything to them *re* such land; but, should I be required to see them, I will proceed there at once on receipt of a letter requesting me to do so.

I have, &c.,

The Under-Secretary, Native Department, Wellington.

JAS. S. MASTER.

Mr. J. D. ORMOND, Napier, to the Hon. J. BRYCE, Wellington.

(Telegram.)

20th February, 1880.

You know position of Native disputes with Harding *re* lands at Waipawa. Harding started fencing, and Natives have stopped fencers. Inspector Scully and Mr. F. E. Hamlin went to Waipawa yesterday, and got proceedings stayed till Monday. Natives say they will prevent fences being erected. I understand Committee last session recommended Government should settle dispute, as difficulty was caused by error of Government officers. Will you instruct Inspector Scully or Mr. Hamlin what to do? I wire you because Natives have come to me thinking I am connected with Government.

J. D. ORMOND.

Mr. J. W. MORPETH, Wellington, to Mr. F. E. HAMLIN, Native Interpreter, Napier.

(Telegram.)

Government Buildings, 21st February, 1880.

WITH reference to the Native difficulty in connection with Mr. Harding's land at Waipukurau, I am directed by the Hon. Native Minister to request you will be good enough to ascertain the terms upon which the matter can be settled, and report the result by telegram to this office with as little delay as possible. Papers on the subject were forwarded to Mr. Master not long since, and doubtless are in the Native Office, Napier.

J. W. MORPETH, for Under-Secretary.

Mr. F. E. HAMLIN, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

23rd February, 1880.

I HAVE the honor to acknowledge the receipt of your wire No. 122, and in reply to state that, under information received by Major Scully that a breach of the peace was likely to occur, Major Scully and I proceeded to Waipawa, the place of dispute. Will not go into details on arrival: sufficient to say that the Natives argued that the boundary now being taken by Mr. Harding was a new one. That they knew nothing of the various lawsuits that had taken place, either in the Resident Magistrate's or Supreme Courts. That, although Mr. Sheehan had been acting as solicitor for them, they had never been made acquainted with the actual state of affairs with respect to the piece of land in dispute, and that this was the first time they had been made acquainted with the actual position of the case. Mr. Harding urged on his part that he had obtained in the Resident Magistrate's Court judgment, one for removing timber, the other for trespass; and latterly had obtained judgment in the Supreme Court for being lawful owner of the land in question, and that a writ of ejectment had been issued from that Court; but through the interference of Mr. Sheehan, acting for the Natives, who promised that if he would let the matter stand over he would see that the Natives vacated the place in about three months, he (Mr. Harding) allowed the matter to stand over; but, through European influence, he would now follow up the matter at any risk or cost. In the conclusion, Major Scully informed the Natives that, from what he knew or could see, Mr. Harding was the lawful owner of the land, and that he would give them till Monday night to find a lawyer or other person to prove their title to be good and Harding's wrong, or upset any statement made by Mr. Harding relative to the parcel of land; and, in case of their failing to do so, the fencing would be proceeded with, and any person obstructing so as to cause a breach of the peace, he would feel it his duty to take into custody as offenders against the law. Since then I have heard nothing from either side, nor Major Scully, except a verbal report I heard this morning, that the Natives expressed their intention to obstruct the fencing.

Now, relative to the point of suggesting a settlement: at present only see three ways of settling the question. First, that the Government compensate Mr. Harding in cash or otherwise, either by private arrangement, or by valuation of one or more valuers, or by the ordinary rules of arbitration for the value of the land and losses he may have sustained, or any other reasonable claim he may have. Second, that the above failing, that the Natives be offered a reasonable sum as compensation for their houses, &c., and remove off the premises immediately after crops are out of the ground. Third, both the above failing to the ground, I see no other alternative at the present moment than to allow the law to take its course, and that the lawful owner be protected. I have already communicated with Mr. Harding and also with the Natives relative to the instructions forwarded to me, and requested both parties to desist until the matter is finally settled, and will take further proceedings on receiving advices from you.

F. E. HAMLIN, Interpreter to General Government.

Mr. F. E. HAMLIN, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

24th February, 1880.

YESTERDAY, through instructions received from you, wired to Mr. Harding as follows: "Having been requested by the Government to see into and recommend some means of bringing about a peaceable settlement of dispute between yourself and the Natives at Waipawa, I have the honor to request that you will be good enough to suspend any further works on the land in dispute till you hear further from me. I am now in communication with the Government on the subject, also with the Natives.—F. E. HAMLIN, Interpreter to General Government."

This morning I was shown the following: "Waipawa, 24th February, 1880.—Inspector of Constabulary, Napier.—Harding's fencers stopped by fifteen unarmed Natives. This morning about one hundred Natives are spread along the line of fence to prevent the erection of it. Mr. Harding demands immediate protection. Instructions requested.—BULLEN, Sergeant." Also the following: "Waipawa, 24th February, 1880.—(Translation.)—Mr. Harding is at work at the fence. We are stopping him. From Matiu Meke."

Will wire to both parties immediately.

F. E. HAMLIN, Interpreter to General Government.

Mr. F. E. HAMLIN, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

24th February, 1880.

I do not anticipate any danger from the Waipawa cases, provided Mr. Harding will be reasonable and attend to any request made to him by any Government officer in charge.

F. E. HAMLIN, Interpreter to Government.

Mr. JOHN HARDING, Waipukurau, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

24th February, 1880.

I DEMAND as my right that the writ of ejectment against Waipawa Maoris, held by Napier Sheriff for over two years, be immediately enforced.

JNO. HARDING.

Mr. F. E. HAMLIN, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

24th February, 1880.

HAVE just received the following "collect" telegram from Mr. Harding:—"Waipawa, 24th February, 1880.—To H. E. Hamlin, Esq., Native Officer, Napier.—I have been humbugged by the various Governments for the last eight years with 'Wait, wait, and we will get the Natives off,' so will wait no longer, but proceed to get possession at all hazard, and expect police to protect me in getting and keeping possession. Continue fencing to-day.—JOHN HARDING."

F. E. HAMLIN, Interpreter to the General Government.

Mr. J. W. MORPETH, Wellington, to Mr. F. E. HAMLIN, Native Interpreter, Napier.

(Telegram.)

Government Buildings, 24th February, 1880.

WITH reference to your three telegrams relative to difficulty with Natives at Waipawa, I am directed by the Hon. the Native Minister to request you will be good enough to see the Natives and Mr. Harding with as little delay as possible, and report to this office the terms on which the matter can be settled. In the meantime Mr. Bryce cannot sanction the using of force to assist Mr. Harding in his fencing operations.

J. W. MORPETH, for Under-Secretary.

Mr. F. E. HAMLIN, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

24th February, 1880.

WILL proceed to Waipawa by 7.40 train to-morrow morning. Have sent notice by wire to that effect. I anticipate no difficulty with the Natives, but do with Mr. Harding.

F. E. HAMLIN, Interpreter to General Government.

Mr. F. E. HAMLIN, Napier, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

26th February, 1880.

RELATIVE to Harding v. Maoris' case at Waipawa, I am not yet in possession of full facts in the case. I visited both parties yesterday. I found the Natives, taking the aspect on the whole, in favourable state. They made several allusions to the past, and the length of time they had been allowed to stay. They also made an allusion to the Oamaru affair. They at last asked for a little time to consult among themselves, which I granted, and further told them that I would like the conclusion of their ideas to be drawn up in writing, and rendered very explicitly. Just before the train was leaving I saw one of their leading chiefs, who said that they expected the decision of the Government would be for them to leave. As soon as I get in full balance on both sides I will tender my report and suggestions.

F. E. HAMLIN, Interpreter to General Government.

Mr. P. A. F. BIRCH, Sheriff, Napier, to the Hon. the MINISTER of JUSTICE, Wellington.

(Telegram.)

26th February, 1880.

RECEIVED letter yesterday from John Harding, Waipukurau, referring to writ of possession issued over two years ago at his suit, requiring me, as Sheriff, immediately to enforce writ, holding me responsible, and threatening me with action for loss caused from this date by his being kept out of his land by the Maoris. Have found copy of telegram sent to you by Mr. Tylee, Sheriff, on 29th January, 1878, requesting your instructions as to attempting to take possession, as it was doubtful if Natives would peaceably relinquish. The position of affairs does not appear to be altered now for the better, and I understand police have been trying to arrange matters. Considerable feeling seems to exist. Natives are not likely to yield. Shall I attempt to take possession under writ. I believe that on last occasion arrangement was come to with your sanction, but can find no trace of such instructions.

PAUL A. F. BIRCH, Sheriff.

Mr. H. RUSSELL to the UNDER-SECRETARY, Native Department.

DEAR SIR,—

Mount Herbert, 7th March, 1880.

This will be delivered to you by Matiu, one of the parties of Tupairu Block, on the Waipawa River, which is in dispute between Harding and the Natives. Matiu is accompanied by Nepia te Aputa, a relative, and resident in the pah on the block, whom you will find a very intelligent Native. Hon. Mr. Wilson, solicitor, Napier, has agreed to appear for the Natives. The case was before Judge Richmond's Commission in 1873, and I brought the matter up before a Committee of the Legislative Council in 1877, on which occasion, as you will see from the Journals of the Council, evidence was taken, especially that of Mr. G. S. Cooper, which satisfied the Committee that injustice had been done to the Natives in altering the original survey, and that consequently a considerable extent of ground had been cut off the Native land, and included in the Crown grant to Mr. Riddiford, which Mr. Harding purchased. I have not the Journals at hand to refer to, but I think the petition was at the instance of Heta Tiki, and I presented it. My recollection of the report is that the Committee recommended the Government to pay Harding a sum not exceeding £300, and to get Harding to convey the land (about thirty acres, I think) back to the Natives.

Harding has always refused to give up an inch, and claims to have the site of the present pa, on which good buildings have been erected. I am lessee of the Tupairu Block, with a reserve to them out of it, including part of the disputed ground, and the pa. There is not the shadow of a doubt that the Natives are in the right as to the alteration of the survey without their consent, and Mr. Cooper's evidence proves this. I believe some of Mr. Riddiford's was included in the Kaimutumu Block, at the Takitaki side of the reserve; but this belongs altogether to different Natives, and the Tupairu grantees receive no benefit from it whatever. Harding maintains that Mr. Sheehan gave him an undertaking that the Natives would clear out within a certain time; but I am sure the Natives never understood or assented to this, and I think Mr. Harding is in error as to the extent of the concession which Mr. Sheehan said the Natives would make. The fact that their petition was before the Council in 1877 shows that they never considered the question settled.

Had my engagements permitted, I would have come down to-morrow to assist at some settlement, which is most desirable, on account of Mr. Harding's violence and threats to burn down the houses, which I myself heard him use, though not to the Natives. You had better send for Mr. Wilson, and also refer to the report of the Council in Heta Tiki's petition, which you will find in the Journals in the Library. Nipia will explain the matter fully from the Native point of view.

Mr. Harding's proceedings, in taking down a boundary fence which he and I erected many years ago, and paid for jointly, without any notice to me whatever, or to the Natives, was most provocative; and had I not impressed on the Natives not to offer the slightest violence, but merely to sit down on the line of fence, I have no doubt a breach of the peace would have ensued. The Natives say that Harding threatened them with soldiers and guns, and also threatened to go and lock up their houses.

The Natives say they want an independent interpreter, not Hamlin; perhaps Mr. Grindell had better be sent for to interpret for them.

T. W. Lewis, Esq., Under-Secretary, Native Department.

I have, &c.,

H. RUSSELL.

P.S.—If no arrangement is come to, the Natives say they will again petition Parliament. Meantime, Mr. Harding should be warned not to persevere in altering the fence or to use threats.

Mr. H. RUSSELL to the UNDER-SECRETARY, Native Department.

DEAR SIR,—

Mount Herbert, 7th March, 1880.

Since writing you this afternoon about Harding's case, I have looked through *Hansard*, and beg to refer you to Volume No. 25, page 455; heading: Hawke's Bay Lands, 13th September, 1877. Also, to Volume No. 26, page 457; heading: H. Tiki, 25th October, 1877. You will see a considerable debate took place, and that Mr. Cooper's evidence was taken. So far as I recollect, no further debate after the 25th October took place; but when the evidence was taken, and before the Council, the resolution referred to in the debate of the 25th October was simply put and carried without discussion. You will see the report of the evidence, of course, in the Journals of the Council for 1877.

I have, &c.,

H. RUSSELL.

T. W. Lewis, Esq., Under Secretary.

#### STATEMENT and EVIDENCE of Mr. JOHN HARDING, *re* certain LANDS at WAIPUKURAU.

STATEMENT of JOHN HARDING, of Mount Vernon, near Waipukurau, in the Provincial District of Hawke's Bay, made in the presence of JOHN BRYCE, a member of Her Majesty's Government of New Zealand, at the Supreme Court Buildings, Napier, this sixth day of March, in the year of our Lord one thousand eight hundred and eighty, in the matter of a dispute with the Natives about certain lands at Waipukurau.

I BOUGHT this land from Mr. Riddiford, of Wellington, twelve years ago last June. Shortly after I was going to England, and I arranged with Mr. Henry Russell to put up the dividing fence. The land had then very recently been surveyed on behalf of the Natives by Mr. Ellison.

*Hon. J. Bryce*: Do you mean that Mr. Ellison had privately surveyed it?—He surveyed it to enable the Natives to get their Crown grants. On returning from England I found a portion of the fence had been erected in the wrong place. Mr. Russell stated that it was not wrong, it was in the right place. I took no further notice until a Native called Heta Tiki commenced to build a house on my land. I then came to Napier and saw the late Sir Donald McLean, who was then acting as Agent for the General Government at Napier. I told him this Native had commenced to build on my land, and, as I had known in Wellington and other places a great deal of trouble arising from allowing such to be done, I felt it my duty to inform him immediately that it might be stopped. I never heard that Mr. McLean took any notice of that further, and the house was finished. From that time up to the present the Natives have continued to build on the land. On each occasion when I have seen them commencing a new house I have told them that if they built the house it would be mine, as the land was mine. I frequently applied to Sir Donald McLean, but could get no satisfaction. Frequently letters remained unanswered. At last I received a letter from him informing me that he would send a surveyor to show the Natives their boundary, which he did. As soon as the surveyors had gone, the Maoris pulled up the pegs. Mr. McLean then informed me that I should take the case to the Supreme Court. This was in 1875. I took proceedings in the Supreme Court against one Heta Tiki, for selling timber off the land, and also for the trespass, to obtain possession. By this time Mr. Sheehan was acting as their solicitor. Mr. Sheehan came to me and said that the Natives had no case; that he should not defend it in the Court, and asked me to stop proceedings, and he gave me a written guarantee that within two months the Natives should leave, and he would see my costs to that date paid. You have a copy of that agreement—I think so—I sent one the other day to Mr. Hamlin.

No, I have not.—Here is the original [handing it to the Hon. Mr. Bryce for perusal]. The man Bennett referred to is the person to whom Heta Tiki sold the timber.

I have not seen that before.—I sent it to Mr. Hamlin. It was on a sheet of blue foolscap, and with a copy of Mr. Lascelles' letter. Just upon my making the agreement with Mr. Sheehan I again went to England, and on my return I found the Natives still in possession. Mr. Sheehan was now Native Minister. I went to Wellington and saw him about it, and I could get nothing satisfactory from him, but that I must wait; and so, as I could get nothing satisfactory, I again commenced proceedings in the Supreme Court. The action was again undefended, and I obtained judgment for £20 damages for trespass and £100 for the timber removed, and a writ of ejectment was issued by the Supreme Court. Since then I have done all in my power, by corresponding with the Native Minister, to get possession of my land, and at last, some three weeks since, my solicitor advised me to put the fence along the boundary line. The fence was commenced on Thursday fortnight. The Maoris interfered and stopped my men. I applied to the police to come over and see that my men were not stopped, and the sergeant telegraphed to Mr. Scully, who came up. Mr. Scully requested me to give the Maoris three clear days that they might obtain legal advice, which I did. On the following Tuesday my men went on with the fencing, but were again stopped by the Maoris. I think that is all I have to say.

There is one little point I do not quite understand. You said the fence was first put up by Mr. Henry Russell; you were then a party to that fencing?—It was like this: Mr. Russell said, "You had better let me put up the fence, and you will go half the cost," as he had the fencing materials.

Was this fence erected on the line that the Maoris now claim to be the proper line?—In part, not altogether. It is between the two in one part. Mr. Russell evidently knew he was not putting the fence in the right place. My sons objected.

They acquiesced in the erection of the fence where Mr. Russell put it?—A lot of the timber I obtained judgment for was removed from outside the line of that fence.

You are sure, Mr. Harding, the fence you have been attempting to erect now was to be erected on the line of the Crown grant? How did you obtain that information?—I had Mr. Ellison, Mr. Rochfort, and others, who showed me the line, and the Maoris.

Was that the occasion you mentioned as the surveyor being sent up?—No; he was a stranger here. The line has been shown to the Natives two or three times, besides the occasion I referred to with Mr. Rochfort.

You say Sir Donald McLean sent up a surveyor to show the Maoris the line. Is that line that was shown the Maoris then the same as you are endeavouring to fence upon now?—Yes; that is the line I am endeavouring to fence upon now.

*Addendum.*—Mr. Rochfort informed me that the fence was in the wrong place, but he could not tell me how without going over the whole line. I then employed Mr. Ellison, he having made the original survey for the Natives.—JOHN HARDING.

#### REPORT of MEETING held with H. TOMOANA and others *re* Harding's Dispute, &c.

Supreme Court Buildings, Napier, 8th March, 1880.

NEPIA te Apatu, Matiu Meke, Henare Tomoana, M.H.R., and other Natives, met the Hon. J. Bryce, Native Minister, at the Supreme Court Buildings, Napier, in reference to a dispute with Mr. John Harding about the boundary of certain land at Waipukurau. Captain Preece interpreted. Mr. Harding was present.

*Hon. J. Bryce:* I am glad to meet you here, and see you all. I give you salutations, and I hope we will be able to settle whatever difficulty there is in this matter. I have gone over all the evidence—documents—I have been able to procure on the subject. I have looked at the plans, and compared one plan with another, and I have a certain amount of knowledge of the case in that way. I have also gone over the evidence given by the Natives and others before a Commission that sat in this place some years ago; and I presume some Natives who were examined on that occasion would like to tell me what is their opinion now as to how the matter stands. I may say that from Mr. Harding's position the case is clear. He has received a Crown grant for a piece of land, and I assume he is now seeking to erect his fence on the boundary line as indicated on that Crown grant. It appears also that the Natives, through their solicitor, Mr. Sheehan, at that time—if I may assume that Mr. Sheehan was their solicitor—made an agreement by which they in fact admitted Mr. Harding's right. It was in connection with an action at law which was then pending, and I will ask you now, Captain Preece, to read this agreement, which is signed by Mr. Sheehan, and will show the Natives what Mr. Sheehan signed on their behalf. [Copy of agreement attached, marked A. (Mr. Sheehan, in the agreement, undertook that the Natives should remove from the disputed land within two months, and that Mr. Harding's expenses should be paid up to the end of the said two months.)] I have given you a general idea of what my knowledge of the case consists of, and I shall be happy to hear any statement any gentleman interested may wish to make on the matter.

*Nepia te Apatu:* We do not know about this agreement. The reason of our remaining on the ground is in connection with the first sale of Waipukurau. The only line we know is the line of Mr. Pelichet. I know nothing of the agreement. If we knew about that we would not remain on the land now. We were under the impression that the Crown grant was only for Mr. Pelichet's line. There was no trouble in Mr. Cooper's time. We have been twenty years on the land, and there has been no trouble. In Mr. Harding's time trouble commenced. We have still occupied the land and cultivated it, and also fenced it, and built houses on it to this time. We acknowledge Mr. Pelichet's line. That is all I have to say.

*Hon. J. Bryce:* Am I right in supposing the original agreement was that the reserve should include the bush, and follow the line of the bush, and that Mr. Pelichet went there to carry out as well as he could that agreement?

*Nepia te Apatu:* The line that Mr. Pelichet made at the time of the purchase of Waipukurau included the bush. It was outside the bush. The bush was included in the Maori portion.

*Hon. J. Bryce:* That is quite correct; the bush was meant to be included. The lines that Pelichet actually cut were not the boundary lines. The lines he actually cut were traverse lines.

*Nepia te Apatu:* We thought they were the boundary lines; five hundred people agreed to those lines. We have probably been on the ground for twenty-five years since.

*Hon. J. Bryce:* Who was it assisted to cut the lines; it could not have been you, you are too young a man?

*Nepia te Apatu:* Probably the people who cut the lines are at the kainga; I did not.

*Hon. J. Bryce:* Is there any one here who assisted to cut the lines?

*Nepia te Apatu:* There are none here; some are dead; probably some are at the kainga.

*Matiu Meke:* I sold the land to Mr. McLean. Some of the people who assisted at the survey are at the kainga, others are dead. We have remained within Mr. Pelichet's survey. It was after Mr. Cooper left that the trouble commenced. I know nothing of the agreement that has been read. We never agreed to it. We have simply held the reserve. We have simply held the reserve which was made at the time of the sale.

*Hon. J. Bryce:* I will tell you what appears to me from the evidence I have been able to get on this matter so far. Before I complete the case or give any expression of my opinion in the matter I mean to examine Mr. Cooper in Wellington, because there does appear to be a little conflict in the

evidence he has given before. It seems pretty clear that it was intended to reserve the bush as a reserve for the Maoris, and that the line was to follow substantially the edge of the bush. Then Mr. Pelichet was sent up for the purpose of marking the bush down on the map, so that the grant could be issued in accordance with the understanding originally made. The only way he could do that would be in a manner similar to what is done in traversing a crooked stream. Some of you must have observed surveyors do this. They run a number of straight lines and make offsets to the stream. That is exactly what Mr. Pelichet's map shows was done in this case. He ran a number of straight lines at some little distance from the bush, and from those straight lines he made offsets to the bush in order to ascertain the boundary of the reserve. Some Maoris may possibly have supposed that these lines he was running for this purpose were in fact intended to be the boundary of the reserve, but that was not the intention. Then, at a subsequent time, it was considered desirable to issue the grant with straight lines, instead of following exactly the line of the bush. Mr. Cooper and Mr. FitzGerald arranged that, with the consent of the Maoris at the time. But I find, on putting a tracing of the boundary under the Crown grant upon Mr. Pelichet's map, that the boundary of the Crown grant and the original survey of the bush are almost exactly coincident. That is a strong indication, to my mind, that the boundary of the Crown grant, where Mr. Harding wishes to erect his fence, was really the original line agreed on with the Maoris. Still, I shall be prepared to take what evidence upon that point the Maoris can give me, and I shall also examine Mr. Cooper as soon as I return to Wellington; upon that point I may say, further, that that view of the case appears to me to be more strengthened by the agreement made between Mr. Sheehan and Mr. Harding, for I may assume that Mr. Sheehan must have been convinced that that was the case, or he would not have entered into that agreement on behalf of the Maoris; at the same time, as I have said, I shall be glad to receive any evidence bearing upon the point that the Maoris are prepared to furnish me with, and, I repeat, I shall examine Mr. Cooper on that point when I go back to Wellington.

*Mr. J. Harding*: Do you remember my being in possession of the land previous to Mr. Cooper?

*Nepia te Apatu*: We remember.

*Mr. J. Harding*: Was not the bush very thick at that time, and formed a fence to keep the sheep back?

*Nepia te Apatu*: I do not know what you were there for.

*Mr. J. Harding*: Do you remember Mr. Cooper taking possession of the place?

*Nepia te Apatu*: Yes.

*Mr. J. Harding*: Did his sheep run over that land that was not sold?

*Nepia te Apatu*: His sheep ran over both pieces of land because there was no fence.

*Mr. J. Harding*: Do you remember my buying the place again, and taking possession of it when Mr. Cooper left?

*Nepia te Apatu*: Yes.

*Mr. J. Harding*: About that time did you let the reserve to Mr. Henry Russell and others?

*Nepia te Apatu*: I remember leasing it to Mr. Russell, but I do not know the year.

*Mr. J. Harding*: Then you see, sir, it became necessary for the fence to be erected. Mr. Cooper and I had let our sheep run on the whole of the land; but after the Maoris let it to Mr. Russell it was necessary to erect a fence.

*Hon. J. Bryce*: What Mr. Harding says is, a dispute could scarcely have arisen in Mr. Cooper's time, because no dividing fence was needed, and it was only after the Maoris let the reserve that a fence was needed.

*Nepia te Apatu*: Our occupation of the place in Mr. Cooper's time was never objected to. Had we been wrong in occupying the place Mr. Cooper would have told us we would have to leave.

*Mr. J. Harding*: They did not occupy the land at all then. Their houses were on Mr. Riddiford's lease. I think they gave him half a ton of potatoes a year for the right of living on the land.

*Hon. J. Bryce*: Did you not occupy some land that was admittedly outside the reserve, and give Mr. Cooper some consideration for it?

*Nepia te Apatu*: That is right. We have left that portion now.

*Hon. J. Bryce*: For my own satisfaction I want a little information on one particular point, and that is how long was it after the original survey before these houses were erected?

*Nepia te Apatu*: The old men were residing on the place before the sale of Waipukurau.

*Hon. J. Bryce*: On that particular place?

*Nepia te Apatu*: We were actually occupying the land before the sale of Waipukurau.

*Mr. Harding*: As near as I remember it was about ten years ago that Heta Tiki began to build the house.

*Hon. J. Bryce*: Of course, being a young man I cannot expect you (Nepia) to answer from personal knowledge. What you say now conflicts with the evidence of other Natives who might be supposed to speak from personal knowledge.

*Nepia te Apatu*: I remember, but I have no idea of the date.

*Hon. J. Bryce*: Is there any person within the knowledge of the Maoris who can give me direct information as to where it was agreed that the line should run? Do you know of any person who can give me direct personal knowledge as to the agreement for running the boundary of your reserve?

*Matiu Meke*: I can give evidence on that subject. I was one of those who made the agreement.

*Hon. J. Bryce*: Was the agreement not simply that the reserve should follow the line of the bush in this case?

*Matiu Meke*: When the land was sold to Mr. McLean it was agreed that the boundary for the Europeans and the Natives should be where the survey was made by Mr. Pelichet. The survey was afterwards made by Mr. Pelichet.

*Mr. J. Harding*: When we were first up there, twenty-five years ago, they all told us the line was from live tree to live tree; and there was a line cut from live tree to live tree by Mr. Bousfield and others.

*Hon. J. Bryce*: Have you (Natives) got the Crown grant for your reserve?



*Matiu Meke* : It has been heard in the Court, but we have not got the Crown grant in our possession.

*Mr. Hamlin* said he had found that Heta Tiki began to build on the land on the 12th November, 1872.

*Hon. J. Bryce* : I think, as a matter of probability, the grant has been issued ; but I think it must be that the line is the same as yours (Mr. Harding).

*Mr. Harding* : It was shown in the Supreme Court that the boundary lines on the maps exactly fitted.

*Nepia te Apatu* : Maori ideas of boundaries are that they go in and out, and bend this way and that way. These lines were cut outside the bush, and we considered they were the actual boundaries of the bush.

*Hon. J. Bryce* : These lines have to be cut to ascertain the boundary of the bush. If a stream, for instance, is a boundary—a crooked stream—the surveyor runs a straight line alongside of it ; but that straight line is not the boundary, and, if the edge of the bush was to be considered the boundary, the only way of ascertaining the boundary is to run a straight line and measure off to the bush. [The Hon. the Native Minister then showed the Natives the traverse lines indicated on the plan of the block, and the actual boundary.]

Inquiries having been made as to whether the Natives had received a Crown grant for their land or not, the

*Hon. J. Bryce* said : I find that the Crown grant has been issued, and it corresponds with the line as shown on this map, which is the same as Mr. Harding is endeavouring to fence upon. What I understand you claim as your boundary are the traverse lines that were run to survey it.

*Nepia te Apatu* : That is the proper line.

*Henare Tomoana, M.H.R.* : I have heard of the dispute about this land. On one occasion when there was a dispute between Mr. Harding and Heta Tiki, I was present, Karaitiana was with me. I understand that this was the old boundary of the purchase—the Native kainga close to the river.

*Hon. J. Bryce* : That is so.

*Henare Tomoana* : I did not actually see the boundaries that I refer to. I think the boundary claimed by the Natives is the one agreed to in 1851. The Natives have been residing on the land ever since. During the time Mr. Cooper occupied the land the Natives' horses did not go over the boundary they now claim. I do not know about the whole of the boundaries. I speak of the place where the Native settlement is. The land was surveyed according to these boundaries, and was heard in the Court. I wish you to hear the evidence of the surveyor who surveyed the block (for the Natives) to go into Court. The boundary as shown red on the map is not the original belt of the bush ; the place where the edge of the bush was has been burnt away. The edge of the bush is now a long way in. The land was sold in 1851. The Natives occupied the pa since 1854. The Natives have always claimed that the outside line is Mr. Pelichet's survey.

*Hon. J. Bryce* : What you all say, it appears to me, is that that blue line should be considered the boundary [indicating blue line on map].

*Several Natives* : Yes.

*Hon. J. Bryce* : There cannot be a doubt that that was the traverse line, and not the boundary line. That is as clear as anything can be. [The Hon. the Native Minister here explained to the Natives the object of running traverse lines when a crooked stream or the edge of a bush is to be a boundary.]

*Henare Tomoana* : That was not explained until the Commission sat.

*Hon. J. Bryce* : I should imagine that it must have been explained at the time to the Maoris who were there to mark out the reserve. I should think the idea was to fix the boundary as near the bush as possible ; and I think the surveyor must have run that line to ascertain the boundary. Before I express my opinion upon this matter, I shall see Mr. Ellison and take his statement ; and I shall also see Mr. Cooper in Wellington, and ask him about the evidence he formerly gave ; and I shall see Mr. Locke also before I leave Napier, and take his statement ; and then I will communicate with the Maoris and with Mr. Harding from Wellington, and express my opinion on the matter.

The Natives then withdrew.

#### A.

MEMORANDUM of terms of settlement of (1) *Harding v. Heta Tiki and Bennett* ; (2) *Harding v. Heta Tiki and other Natives* : No. 1. Action to be withdrawn ; Natives to pay their proportion of taxed costs. No. 2. Action to be withdrawn ; possession to be given of ground within two months from date. Natives to be allowed to remove houses, crop, and personal property, but not fencing. Natives to pay taxed costs.

I approve of these terms of settlement on behalf of the Natives in both actions.

17th December, 1875.

J. SHEEHAN.

JOHN HARDING.

WAIPAWA RESERVE.—MEMORANDUM for Captain Preece *re* the Dispute as to Boundaries between Mr. John Harding and certain Natives.

I HAVE perused the evidence taken in this case before the Hawke's Bay Commission in 1873, and also that before a Parliamentary Committee in 1877, and I have taken the statement of some of the Natives concerned, and also Mr. Harding's, as well as statements by Mr. Ellison, Mr. Locke, Mr. Cooper, and others.

The conclusions I have arrived at are as follow : 1st. There is no dispute as to the legal boundary of Mr. Harding's land, nor is there any as to the boundaries of the Native reserve, Waipawa. 2nd. The present boundaries, as described in the grants, were laid out substantially in accordance with the original intention, and no breach of faith or accidental error has been committed by the Government in the issue of the Crown grants in question. 3rd. It is possible that some of the older Natives concerned



may have supposed that some portion of the original traverse lines, run at some distance from the true boundary, was, in fact, the boundary, and this possible misconception on their part constitutes their only claim to consideration. 4th. Mr. Harding appears to have a perfect right, equitably as well as legally, to erect his fencing on the boundary of his land as defined in his Crown grant, as well as in the grant of the Waipawa Reserve, and also to receive possession of the land which he claims. 5th. Mr. Sheehan himself seems to have known this, for in December, 1875, he agreed, on behalf of the Maori owners of the reserve, that they should remove from the disputed land within two months from that date, on condition that certain actions at law were withdrawn. 6th. The Natives must therefore cease their resistance to the erection of the boundary fence, and must also prepare to give Mr. Harding possession of his property. 7th. But, as it is possible, as I have already said, that the Maoris misconceived the position of their boundary line by mistaking the original traverse line for it, I am prepared to show them some consideration provided they concur in my decision and give no further trouble in the settlement of this vexed question. 8th. I will, in that case, ask Mr. Harding to allow the Natives a sufficient period—say six months—for the removal of their buildings and crops from his property, and I will, on behalf of the Government, pay them £200 to assist them in effecting such removal. It must, however, be distinctly understood that this offer is completely contingent on the acceptance by the Natives of my decision.

9th March, 1880.

JOHN BRYCE.

Mr. G. A. PREECE, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

12th March, 1880.

*Re* your telegram of 2nd instant, I have received letter from Waipawa Natives stating that they will give their answer as soon as they can get Matiu and others together to consider the matter. Matiu is at present at Porangahau; they have written for him.

The Hon. the Native Minister, Wellington.

GEORGE A. PREECE.

Mr. G. A. PREECE, R.M., Napier, to the UNDER-SECRETARY Native Department, Wellington.

(Telegram.)

13th March, 1880.

Will you kindly send instructions for Mr. Hamlin to accompany me to Waipawa.

GEORGE A. PREECE, R.M., Native Officer.

The UNDER-SECRETARY, Justice Department, to the RESIDENT MAGISTRATE, Napier.

(Telegram.)

Government Buildings, 15th March, 1880.

PLEASE place Mr. Hamlin's services at the disposal of Captain Preece, who wants him to go to Waipawa with him.

R. G. FOUNTAIN.

Mr. G. A. PREECE, Waipawa, to the Hon. J. BRYCE, Wellington.

(Telegram.)

31st March, 1880.

THE Waipawa Reserve: Natives refused terms and obstructed survey, but subsequently allowed survey to proceed. I will endeavour to induce them accept terms by giving them time to consider. Send this in case obstruction of survey should be reported.

GEORGE A. PREECE.

Mr. F. E. HAMLIN, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

1st April, 1880.

ACCOMPANIED Captain Preece to Waipawa yesterday in case *Harding v. Waipawa Natives*. Natives, although at first somewhat stubborn, and went so far as to stop the survey, by little judicious management ultimately withdrew their objection so far as the survey was concerned. His Excellency's Government may compliment itself that this survey has been objected and opposed for about ten years past and now allowed to progress; but the Natives still maintain that they are right with respect to their ownership of the land. The survey was allowed to go on unmolested, although the Natives at the time stated that they would [not] accept the £200 offered by the Government; still I am of opinion that they will yet accept the terms offered—excepting what European influence outside of the Government may yet be brought to bear. Captain Preece will doubtless have tendered a more full report.

F. E. HAMLIN, Interpreter to General Government.

Mr. G. A. PREECE, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

2nd April, 1880.

*Re* WAIPAWA reserve. I returned yesterday. Mr. Ellison completed the survey without further trouble. I am inclined to think Natives will accept terms if they have short time to consider. Have made them understand that your offer is contingent on their agreeing to abandon land and give no further trouble. I think they will give in if dealt with firmly. They will write to me on subject in few days.

GEORGE A. PREECE.

NEPIA TE APATU to Captain PREECE.

(Translation.)

Waipawa, 7th April, 1880.

FRIEND, salutations! Your letter of yesterday has been received, in which you state you have received a telegram from the European (Native) Minister, requesting us to consider the offer made to us through you and Mr. Hamlin; also stating that, if the offer was refused, it would not be renewed. My word to you is, Matiu is still absent; but I think I told you so before. I have sent letters to Matiu, Nopera, Paora, and others to come here. Enough. Probably they will be here next week.

Notwithstanding our houses being surveyed, your words are not finished.

To Captain Preece.

From NEPIA TE APATU.

The CHIEF SURVEYOR, Napier, to the SURVEYOR-GENERAL, Wellington.

District Survey Office, Napier, 9th April, 1880.

ON 19th March the Hon. the Native Minister directed me to have a survey made of a disputed boundary between a Native reserve (Tapairu Block) and the Crown grant for Block No. 14, Waipukurau District. A plan of the survey asked for, and also a tracing of the plan of the first survey of the Taiewa Native Reserve, is enclosed herewith. The Hon. the Native Minister desired that the position of a fence, which the Natives are said to have pulled down, should be shown on the plan. The surveyor was particularly instructed to carry out the Minister's wishes, but he says he was not able to do so, because the Natives never allowed the fence to be erected, and consequently there are no post-holes in the ground. The survey has been delayed through the floods and wet weather; it was impossible for ten days after the day fixed on by Captain Preece and the surveyor for them to get to the ground. The surveyor's account—£10—for the survey is herewith forwarded for payment.

The Surveyor-General, Wellington.

HORACE BAKER, Chief Surveyor.

Mr. G. A. PREECE, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

17th April, 1880.

WILL you give me authority to give the Natives fortnight to consider your terms *re* Waipawa Reserve?

GEORGE A. PREECE.

MATIU MEKE and others to Captain PREECE and the Hon. Mr. BRYCE.

(Translation.)

Waipawa, 22nd April, 1880.

FRIEND, salutations! Your letter of the 20th has been received, in which you state that the Minister has allowed fourteen days for us to consider the terms offered to us by you; if we do not consider or accept them within fourteen days the offer of £200 will be withdrawn, and will not be renewed. Also that we must leave our land whether we accept the terms or not.

This is our word to you, that is to the Minister: we give our firm resolve now; we will not consent to the terms proclaimed to us by Captain Preece, or to the words contained in his letter of the 20th of April. We, the whole tribe, will remain permanently on the boundary of the whole tribe, also of Sir Donald McLean, who confirmed it in the year Waipukurau land was sold, and sent Mr. De Pelichet, the surveyor, whose boundary is still to be seen. Enough. We are still within the boundary of the whole tribe, also that of Sir Donald McLean.

Enough from all of us, from the whole tribe.

MATIU MEKE.

PORIKAPA.

NEPIA TE APATU, and others.

Send this to the Minister.

To Captain Preece, and to the Hon. Mr. Bryce, Native Minister.

Mr. G. A. PREECE to the Hon. the NATIVE MINISTER.

SIR,—

Native Office, Napier, 23rd April, 1880.

I have the honor to report for your information that, in accordance with the instructions contained in your memorandum of the 19th ultimo, I proceeded to Waipawa on the 31st, accompanied by Mr. F. E. Hamlin and Mr. Ellison, licensed surveyor. On arrival I held a meeting of the Natives, and informed them of the contents of your memorandum; also that Mr. Ellison had come by instruction from the Government to ascertain if the boundary, as claimed by Mr. Harding, agreed with the Crown grant of his land and the Waipawa Reserve. The Natives made several speeches recapitulating their statements to you concerning the boundary originally laid down by Mr. De Pelichet. While the speeches were being made Nepia te Apatu sent some women out to stop the survey. Mr. Ellison was in the act of returning, when I spoke to the Natives, telling them that they were committing themselves by so doing. They then acknowledged that they were wrong, and sent the women to give up the pegs they had taken. After having first refused your terms, the Natives asked for time to consider the matter, as some of their people were absent. The survey being completed, I returned here on the following evening, expecting to get a reply in a few days. On the 6th instant I wrote, telling them that I was waiting for a reply; also stating that if the offer was refused it would not be renewed. I received a reply to the effect that they still waiting for Matiu and others, who were absent. After receiving your telegram of the 19th instant I again wrote, telling them that I would give them fourteen days to consider the matter, after which the terms offered by you would be withdrawn. I received the enclosed reply, in which they absolutely refused to accept the terms, or leave the land which is in dispute.

I may state for your information that Mr. Ellison informs me that the portion of Mr. Harding's fence which is already erected is on the proper boundary line, according to the grants of the two blocks. While Mr. Ellison was at Waipawa the Natives pointed out what they claim to be Pelichet's original line; also another line nearer to the bush, which they state was laid out by Mr. M. Fitzgerald or Mr. Bousfield. The points of the last supposed line are between what they state to be Mr. De Pelichet's line and the one now in dispute. Mr. Ellison is of opinion that it is probable that Mr. De Pelichet's traverse line did run about the place pointed out by the Natives.

I have, &c.,

The Hon. the Native Minister, Wellington.

GEORGE A. PREECE.

The Hon. J. BRYCE to the Hon. W. ROLLESTON.

(Telegram.)

24th April, 1880.

WAIKAWA Natives refuse to accept terms, and refuse also to leave land. I think Harding might receive assistance in quelling any disturbance arising from his fencing, which I should not imagine is likely to be serious.

JOHN BRYCE.

Mr. G. A. PREECE, Napier, to the UNDER-SECRETARY, Native Office, Wellington.

(Telegram.)

3rd May, 1880.

MR. HARDING has written to me as follows: "I wish to know when I am to be put in possession of my land. The Natives having declined the offer of the Native Minister, I now expect that without further delay the writ of the Supreme Court be now executed. I wish to know if I can now claim the protection of the police to enable me to put up my fence." I send this by telegram, as I think it is important to remain on the land. They are sure to obstruct any attempt to erect fence.

GEORGE A. PREECE.

The UNDER-SECRETARY, Native Department, to Captain G. A. PREECE, Napier.

SIR,—

Native Office, Wellington, 20th May, 1880.

I have the honor to acknowledge the receipt of your telegram of the 3rd instant, in connection with the Native dispute at Waipawa, and, in reply, am directed by the Hon. the Native Minister to inform you that he does not think it is for the Government to execute the writ of the Supreme Court. The attempt on the part of the Government to arrange the matter having failed, the law must be left to take its course. I have to request you will be good enough to communicate the purport of this reply to Mr. Harding.

I have, &c.,

T. W. LEWIS,  
Under-Secretary.

Captain G. A. Preece, R.M., Native Agent, Napier.

Mr. J. D. ORMOND, Napier, to the Hon. W. ROLLESTON, Wellington.

(Telegram.)

3rd May, 1880.

HAVE seen Preece, and correspondence *re* Harding's land. I disagree with Bryce's decision, as I believe the Natives right in saying they did not sell the land. Locke and Williams, who know the whole history and circumstances of the case, are of that opinion. On Friday the Natives sent the word that they had refused Government offer, and would remain on the land. I advised them to submit to the law, and promised to assist them in getting their case heard by Parliament. They have replied they will stick to the ground, and I think force will be required to remove them. They are collecting at Waipawa. The wretched piece of land in dispute is valueless, and probably next flood the river will wash it away. I shall be absent from Napier this week at Wallingford.

J. D. ORMOND.

Mr. JOHN HARDING to the Hon. the NATIVE MINISTER.

SIR,—

Mount Vernon, 15th May, 1880.

I shall be glad to know if you have any answer for me to my letter of 2nd April, 1880; also, whether you will now allow me to call on the police to protect me in the erection of my boundary fence, the Maoris having declined your liberal offer. Also, if you intend to have me put in possession of my land and the houses upon it.

I have, &c.,

The Hon. the Native Minister.

JOHN HARDING.

The UNDER-SECRETARY, Native Department, to JOHN HARDING, Esq., Waipukurau.

SIR,—

Native Office, Wellington, 22nd May, 1880.

I have the honor to acknowledge the receipt of your letter of the 15th instant relative to the Native difficulty connected with your land at Waipawa, and, in reply, am directed by the Hon. the Native Minister to enclose herewith for your information the copy of a letter on the subject, dated the 2th instant, addressed to Captain Preece, Native Agent, Napier.

I have, &c.,

John Harding, Esq., Mount Vernon,  
Waipukurau, Hawke's Bay.

T. W. LEWIS,  
Under-Secretary.

The SHERIFF, Napier, to JOHN HARDING, Esq.

(Telegram.)

Waipukurau, 2nd June, 1880.

*Re* your letter received 27th ultimo: I shall proceed to take steps put you in possession on earliest possible date, but you will require to remit me the sum of £5 expenses of self and men in proceeding to execute writ. On receipt of same I shall advise you of the day when I shall proceed to give you possession.

John Harding, Esq., Mount Vernon, Waipukurau.

PAUL A. F. BIRCH, Sheriff.

Mr. G. A. PREECE, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

19th July, 1880.

*Re* Waipawa. Bailiff in possession, and treated well by Natives, who, however, refuse to leave the ground. I will report any further action.

GEORGE A. PREECE, R.M.

Mr. P. A. F. BIRCH, Sheriff, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

Waipawa, 19th July, 1880.

AM about taking forcible possession from Natives on Harding's land, as they will not give up peaceable possession. A serious breach of the peace will certainly ensue. Cannot resist, unless instructed immediately to the contrary. Please wire immediately. Harding's men waiting ready to pull down houses, and Natives are there in force.

The Hon. the Native Minister, Wellington.

PAUL A. F. BIRCH, Sheriff,

Mr. P. A. F. BIRCH, Sheriff, Napier, to the UNDER-SECRETARY, Justice Department, Wellington  
(Telegram.) Waipawa, 19th July, 1880.

HAVE wired Native Minister that Natives will not give up possession of Harding's land, which I seized under writ. Harding's men waiting to commence pulling down houses. Breach of peace will certainly ensue. I must go on unless instantly instructed to contrary.

The Under-Secretary, Justice Department.

PAUL A. F. BIRCH, Sheriff.

The Hon. the MINISTER of JUSTICE to P. F. A. BIRCH, Esq., Sheriff, Waipawa, Hawke's Bay.

(Telegram.)

Wellington, 19th July, 1880.

*Re* Waipawa dispute. You are officer of Supreme Court. Full responsibility of a very serious character rests with you. Government cannot instruct.

P. A. F. Birch, Esq., Sheriff, Hawke's Bay.

WM. ROLLESTON.

Mr. P. A. F. BIRCH, Sheriff, Napier, to the UNDER-SECRETARY, Justice Department, Wellington.

(Telegram.)

20th July, 1880.

NATIVES at Harding's run positively decline to leave, and will offer resistance if interfered with. Yesterday, in order to avoid serious breach of peace, did not take any decisive measures, as had not sufficient force. Natives assembled in large numbers. Harding now threatens action. With sufficient assistance I think it could be arranged without serious disturbance, but without it is impossible to carry out writ. Sympathy of people at Waipawa with Natives, and matters have been so long in abeyance that, if now let rest, Natives will be more encouraged to resist law. Consequently could obtain but little assistance on spot. Will Government supply me with sufficient force to oust Natives and give possession?

The Under-Secretary, Justice Department,  
Wellington.

PAUL A. F. BIRCH, Sheriff.

The UNDER-SECRETARY, Justice Department, to the SHERIFF, Napier.

(Telegram.)

Government Buildings, 22nd July, 1880.

IN reply to your telegram of 20th instant, *re* Harding's land, I am to say Government declines to interfere.

R. G. FOUNTAIN.

Mr. J. HARDING to the Hon. the MINISTER of JUSTICE.

SIR,—

Mount Vernon, 21st July, 1880.

You being aware of the case of the Waipawa Natives residing on my land, and what has been done in it so far, there is no need to occupy your time by stating the same. I wish to ask you whether it is the intention of the Government to put me in possession; if not, will you allow me to take the law into my own hands, and, by force, get possession?

On receipt of letter from the Hon. the Native Minister, informing me that the Waipawa Natives had refused his offer and that the law must take its usual course, I wrote to the Sheriff, informing him of the same, and asking when he would come up and put me in possession. In answer I received a telegram (copy enclosed) on 2nd June. He did not come until 18th July, though I sent him the £5 immediately. When he came he brought one man with him as bailiff, and an interpreter. I was with him, but, at his request, did not go with him to the pa, but went to him at the pa some time after, when he told me he had given the Natives two hours to talk it over, and wire to you for instructions. I met him again at the time stated, by which time a large number of Natives from other parts had arrived at the pa. I had men in waiting all day to assist the Sheriff, and wished him to allow them to commence fencing and pulling down the whares, stating that I was sure that if the Natives saw that he was in earnest they would leave, but he would only make them more bounceable by letting them see he was afraid of them. He then asked me to procure two men to remain with his bailiff till 12 o'clock on Monday, he having promised to wait till then, and that he would then turn off the Natives and give me possession. On Monday, after a lot of useless talking, and showing the Maoris his weakness, they making no signs of moving, he informed me, at about 3 o'clock, that he was not going to disturb the Natives then, but would leave three men in charge of the place until he did give me possession. I then, seeing it was all a farce, called the two men I had engaged, and told them I would pay them for the time they had been there, but that from that time they must look to the Sheriff for both food and pay. (I had supplied them with food until then.) The Sheriff then left, and so did I. I am informed that next morning he wired to the three men to give up possession. Of course the Natives say the Government has done all they can do, and that they (the Natives) have beaten the Government; and, as a result, to-day they went to one of my tenants, ploughing in a field about half a mile from the pa, and stopped him ploughing.

I wish to know what you intend doing. I also wish to know whether the Sheriff was justified in demanding £5 from me before he would come to execute the writ—my solicitor says he was not; and whether, he having failed to put me in possession, he ought not to refund the same? Hoping for some satisfactory answer,

The Hon. the Minister of Justice.

I have, &c.,

JOHN HARDING.

Mr. J. HARDING, Waipawa, to the Hon. the NATIVE MINISTER and MINISTER of JUSTICE,  
Wellington.

(Telegram.)

21st July, 1880.

NATIVES have stopped one of my tenants ploughing, and threaten to occupy land. Am I not to get protection of police?

JOHN HARDING.

Mr. J. HARDING to the Hon. the NATIVE MINISTER.

SIR,—

Mount Vernon, 21st July, 1880.

I beg to inform you that one of my tenants came to me to-day and informed me that the Natives living on my land at Waipawa came to him this morning and made him leave off ploughing. (He was ploughing in a paddock about half a mile from the pa.) He says that the said Natives also told him that they should now claim all the land east of the railroad. I wish to know what is to be done in the matter: things cannot go on like this much longer; in fact, the ploughman told me that he will go on with his work in the morning, and if any Native offers to molest him or stop him from ploughing he will knock the Native down. He is a large, heavy, strong man, and I have no doubt will keep his word; and, as I want this matter settled somehow, I hope he will do so, as the farce of the Sheriff coming and reading the writ and then going away again, leaving the Natives in quiet possession, has made them worse than before. I wish to know whether you will allow Captain Preece to furnish me with a copy of your report in this case, and your offer to the Natives; Mr. Preece thinks he cannot do so without your authority.

I have, &c.,

The Hon. the Native Minister.

JOHN HARDING.

The UNDER-SECRETARY, Native Department, to Captain G. A. PREECE, R.M., Napier.

SIR,

Native Office, Wellington, 26th July, 1880.

I have the honor to inform you that Mr. Harding, of Mount Vernon, has applied to this office for permission for you to supply him with a copy of the Hon. the Native Minister's memorandum to you in connection with the Native difficulty at Waipawa, and, by direction of Mr. Bryce, to request you will be good enough to furnish Mr. Harding with a copy of the memorandum in question.

I have, &c.,

T. W. LEWIS,

Under-Secretary.

Captain G. A. Preece, R.M., Native Agent, Napier.

The UNDER-SECRETARY, Native Department, to Mr. J. HARDING, Waipukurau.

SIR,—

Native Office, Wellington, 26th July, 1880.

I have the honor to acknowledge the receipt of your letter of the 21st instant, and, in reply, am directed by the Hon. the Native Minister to inform you that, in compliance with your request, instructions have been given to Captain Preece to furnish you with a copy of the memorandum in his possession in connection with the Native difficulty at Waipawa.

I have, &c.,

T. W. LEWIS,

Under-Secretary.

John Harding, Esq., Mount Vernon, Waipukurau, Hawke's Bay.

The UNDER-SECRETARY, Justice Department, to Mr. J. HARDING, Waipawa.

SIR,—

14th August.

I have the honor, by direction of Mr. Rolleston, to acknowledge the receipt of your letter of the 21st ultimo relative to the occupation of your land by Natives, and inquiring whether the sum of £5 paid by you to the Sheriff before the attempt to execute the writ of ejectment can be refunded to you, and, in reply, to inform you that the Government is not responsible for the action taken by the Sheriff in demanding prepayment of the above-named sum.

I have, &c.,

R. G. FOUNTAIN,

Under-Secretary.

Mr. J. Harding, Waipawa.

Mr. G. A. PREECE, R.M., Napier, to the UNDER-SECRETARY, Native Office, Wellington.

(Telegram.)

24th July, 1880.

In reply to your's of yesterday, I have been absent at Wairoa on judicial duty since Tuesday. I telegraphed to Mr. Hamlin on Wednesday to inquire how matters were going on. He replied that the bailiffs were withdrawn, on account of Mr. Harding not authorizing them costs; and as there was nothing being done by the Natives, there was nothing to report. I only just returned from Wairoa, and had no knowledge of the last matter reported in papers. I will proceed to Waipawa by 4.30 train if you think necessary that I should do so.

GEORGE A. PREECE, R.M.

Mr. J. HARDING, Waipukurau, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

24th July, 1880.

NATIVES have just taken away all the goods of my tenant, McNutt, and a cart of mine, and are now removing McNutt's house; they threaten to eject another tenant on Monday. Unless you do something immediately, I must arm a force of men for protection of self and tenants.

JOHN HARDING.

Mr. G. A. PREECE, Waipawa, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

27th July, 1880.

I FIND that the piece of land which McNutt leases from Mr. Harding is a portion of the disputed land, although above the place where Natives stopped Mr. Harding fencing. Natives looked upon the ploughing immediately after withdrawal of bailiff as an attempt to open up old dispute. They say that they merely wish to put a stop to the ploughing; that they asked him to stop first. I am afraid that the fact of bailiffs being withdrawn has had a bad effect, as they now say Supreme Court officers acknowledge their right. I think they will stop any attempt to plough the land in dispute, but will not interfere with any one occupying that portion of land in dispute which is within Mr. Harding's fence.

GEORGE A. PREECE, R.M.

Mr. P. A. F. BIRCH, Sheriff, to the Hon. the MINISTER of JUSTICE.

SIR,—

Sheriff's Office, Napier, 28th July, 1880.

I have the honor to report that on Saturday, 17th instant, I endeavoured to execute a writ of possession for Mr. John Harding, and to hand him over certain land adjudged by the Supreme Court to be his property, and situate near Waipawa. The writ bears date 24th January, 1878, and was originally placed in the hands of Mr. Tylee, the then Sheriff, for execution. Mr. Hamlin accompanied me as interpreter, and the writ having been read and explained to the Natives, who were assembled in large numbers, they requested me to await the return of their chiefs, Matua and Nepia. Having formally placed bailiffs in charge, and the chiefs having returned, I allowed them till the 19th to talk over the matter, and should have been prepared to grant them a certain stipulated time in which to remove from the land. On the 19th, however, they informed me that the land was theirs, and was handed down to them by their ancestors, and that they positively would not remove, or in any way surrender possession; and, further, that if "the Sheriff or his officers did anything that was bad to them they would not be answerable for the consequences." And it was quite evident that they would not surrender. Mr. Harding had meanwhile brought down some men with axes, saws, &c., and was desirous of commencing to demolish the whares and commence fencing. Had he done so the Natives would certainly have retaliated and resisted to the utmost, their numbers being then strengthened. Apprehending a serious disturbance, and having no force at my command, the police also having received instructions not to interfere, I had no alternative but to decline to allow Mr. Harding's men to act as they desired, and I retired, leaving the bailiffs still in possession. Mr. Harding thereupon informed them (the bailiffs) that they would have to look to the Sheriff for "both food and payment" from that moment. On Tuesday, 20th instant, I had no alternative but to withdraw the bailiffs, as I could not afford to pay them further out of my own pocket. Mr. Harding now intimates to me that he will enter an action against me for failing to put him in possession.

This is briefly the substance of the transaction, and I enclose a report of my first day's interview with the Natives, which is substantially correct, and is taken from the *Hawke's Bay Herald*. I am sure it will be admitted that, under the circumstances, I could scarcely have acted differently without serious risk of a disturbance, more especially as the feeling of the people of Waipawa seems to be with the Natives. My position therefore was one of extreme difficulty, and, without assistance, I am unable to do anything more in the matter.

I have, &c.,

P. A. F. BIRCH,

Sheriff.

The Hon. the Minister of Justice, Wellington.

[Extract from *Hawke's Bay Herald*.]

#### THE NATIVES AT MOUNT VERNON.

MR. P. A. F. BIRCH, Sheriff of Hawke's Bay, accompanied by Mr. F. E. Hamlin, Mr. Guy (solicitor for Mr. Harding), Sergeant Bullen, the bailiff and constable, proceeded on Saturday to Waipawa, and crossed the river to the Native pa. The Natives had received notice of the intended visit, and were all assembled in the meeting-house—men, women, and children—the women evidently taking a more lively interest in the proceedings than the men, many of whom were lying at full length on the floor enveloped in their blankets. The Sheriff commenced proceedings (Mr. Hamlin interpreting) by stating that by the adjudication of the Supreme Court of New Zealand the land in dispute at Mount Vernon belonged to Mr. Harding, and that he (Mr. Birch), as Sheriff of the Supreme Court, had come to take possession on behalf of Mr. Harding. The Sheriff then read the writ in English, and Mr. Hamlin interpreted it to the Natives. Mr. Hamlin, translating for the Sheriff, then requested the Natives to give up possession to the bailiff. Maite, a chief of Te Aute, spoke on behalf of the rest, and asked that proceedings should be stayed until the arrival of Henare Matua and Nepia te Apatu. The Sheriff replied that they had had ample time to consider, and there was nothing more to be said; he must take possession. The chief responded that they were not in a position to reply to that, Nepia being away. The Sheriff then requested them to leave in a friendly manner, saying that he must carry out the law, and leave the bailiff in possession. Maite replied, "We are not in a position to reply. Those who heard the terms proposed by you (Mr. Hamlin), and Captain Preece for the Government, are absent." The Sheriff replied that he was going to take possession, and that they must leave at once. The Natives admitted that they had received a notice from Captain Preece that the Government had withdrawn their offer in respect to the land; but one of them said the land was theirs, and began to argue with respect to the boundary. Another Native remarked that what Mr. Hamlin and Captain Preece had told them formerly did not agree with what was being done now. Mr. Hamlin told them that what he and Captain Preece had said before was an offer from the Government which they had not accepted, and it had been withdrawn. The law must therefore take its course. The Sheriff said he was then representing the Government, and he would place his bailiff in possession for Mr. Harding.—The Natives: We will not leave.—The Sheriff cautioned them against resisting the Queen's writ, and asked them when they would be prepared to leave. A Native replied that Henare Matua and Nepia would be there that day, and could reply. They were on their way there, but it might be late before they arrived.—The Sheriff: We will now leave the man in possession.—The Natives: Do not leave him here.—The Sheriff: He must remain where we leave him.—The Natives asked that he might be removed until the chiefs came, adding, "Where will he get anything to eat?"—Mr. Hamlin: We are not afraid but what you will find him something to eat.—A Native then quoted scripture, saying, "If your enemy hunger feed him; if he thirst give him drink," but added that they were not going to feed this enemy, or give him drink.—The Sheriff: The bailiff will be left here to represent the Queen, and you had better make arrangements to leave immediately.—A Native (in a jocular way): We will starve him out.—Mr. Hamlin: There is not much fear of that.—The Sheriff then retired, leaving the bailiff, his assistant, and the constable in possession. He said he would return at 2 p.m. to see if the chiefs had returned. At two o'clock the Sheriff returned to the pa, and shortly after, Henare Matua and Nepia arrived. They again asked for delay, and the Sheriff finally agreed to wait till ten o'clock on Monday morning, leaving his men in possession.

The UNDER-SECRETARY, Justice Department, to the SHERIFF, Napier.

SIR,—

13th August, 1880.

I have the honor, by direction of Mr. Rolleston, to acknowledge the receipt of your letter of the 28th ultimo, reporting your proceedings in connection with your attempt to place Mr. Harding in possession of the land held by the Natives.

I have, &c.,

The Sheriff, Napier.

R. G. FOUNTAIN, Under-Secretary.

Mr. G. A. PREECE, R.M., Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

4.30 p.m., 29th July, 1880.

Just received telegram; was away holding meeting *re* Sutton's case. I will make inquiry if there is anything fresh from Waipawa. If the report alludes to disturbance last week, the house is within Harding's fence, and within thirty yards of where the Natives stopped him fencing. I have heard that Natives threaten to turn off another tenant of Mr. Harding, who is living some distance off. The fact of Sheriff taking possession and afterwards withdrawing has made Natives bounce more than they did previously; also they are to a certain extent led by the Wairarapa Native prophet "Paroa Potangaroa," with whom they have communicated.

The Native Minister, Wellington.

G. A. PREECE, Resident Magistrate.

Mr. G. A. PREECE to the UNDER-SECRETARY, Native Department, Wellington.

SIR,—

Native Office, Napier, 30th July, 1880.

I have the honor to acknowledge the receipt of your letter of the 26th instant, No. 2114, and in reply I beg to state that I have furnished Mr. Harding with a copy of the Hon. the Native Minister's memorandum, according to the instructions received.

I have, &c.,

The Under-Secretary, Native Office, Wellington.

G. A. PREECE, R.M.

Mr. G. A. PREECE, R.M., Napier, to the UNDER-SECRETARY, Native Department, Wellington.

(Telegram.)

2nd August, 1880.

The interference with ploughing took place inside Mr. Harding's fence, close to place where Natives stopped Mr. Harding fencing. A portion of the fence erected by Mr. Russell was on the piece where ploughing stopped. It is alleged by Natives to be inside De Pelichet's old line.

GEORGE A. PREECE, R.M.

Captain G. A. PREECE, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

6th August, 1880.

*Re* Waipawa dispute. Papers state that Mr. Nutt has commenced ploughing land without being opposed. I find that he has been ploughing on upper side of railway, not on ground where he was stopped. Natives have been putting up flags, and putting in pegs on Harding's ground, and have told Mr. R. Harding that they will turn him off his homestead. I do not think they mean to carry out the threat. I purpose visiting Waipawa on Monday.

GEORGE A. PREECE, R.M.

Captain G. A. PREECE, Napier, to the Hon. the NATIVE MINISTER, Wellington.

(Telegram.)

11th August, 1880.

NOTHING further from Waipawa. I have not been up there yet, owing to having to give evidence here in arms-selling case. Will get up on Friday.

GEORGE A. PREECE, R.M.

By Authority: GEORGE DIDSBUY, Government Printer, Wellington.—1880.

Price 9d.]



